

AN ORDINANCE

07-0611

BY: COUNCILMEMBER CLAIR MULLER

AN ORDINANCE TO AMEND THE LAND DEVELOPMENT CODE, SECTION 16.28.008(5) TO LIMIT THE HEIGHT OF RETAINING WALLS IN FRONT, HALF DEPTH FRONT, SIDE AND REAR SETBACKS, OR YARDS; AND FOR OTHER PURPOSES.

WHEREAS, the redevelopment of existing lots, as well as the development of new lots has increased the need for high retaining walls that can have damaging environmental impacts for surrounding property owners; and

WHEREAS, there are currently no height limitations in the Land Development Code for retaining walls in the setback, or yard of a developable lot; and

WHEREAS, without limitations on the height of retaining walls, property owners are allowed to build retaining walls in setbacks that can reach as high as ten feet or more; and

WHEREAS, not only do retaining walls ten feet in height or greater create visual problems for neighboring property owners, but they can also create serious environmental problems including an increase in storm water run-off and erosion; and

WHEREAS, the City already regulates the height of fences in the setback, or yard making it logical that similar limitations be placed on retaining walls.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA, as follows:

Section 1. That Section 16-28.008(5) of the Land Development Code of the City of Atlanta which currently reads as follows:

(5) *Walls or fences in required yards; height limits:* Fences, walls or hedges may occupy required yards as follows; provided, however, that no such walls or fences create substantial impediments to visibility as prohibiting at Section 16-28.008(9).

(a) In the following dwellings districts, R-1, R-2, R-3, R-4 and R-5, fences not exceeding four (4) feet in height may be erected in the front yard. Fences or walls not exceeding six (6) feet in height may be erected or maintained in side or rear yards.

(b) In the following residential general (R-G) district, fences not exceeding four (4) feet in height may be erected in the front yard. Fences or walls not exceeding eight (8) feet in height may be erected or maintained in the side or rear yards.

(c) The provisions of (a) and (b) above notwithstanding, in any dwelling district no fence or wall exceeding two and one-half (2 1/2) feet in height, as measured from the grade at the intersecting street right-of-way lines, shall be erected or maintained within 20 feet of any street intersection.

(d) In all other districts, fences may be erected or maintained within any required yard provided they shall not exceed nine (9) feet in height.

(e) *Special exceptions on greater height of walls or fences in required yards:* The board of zoning adjustment may grant special exceptions in any district for greater heights only upon finding that:

1. Such wall or fence is justified by reason of security or privacy and will not unduly prevent passage of light and air to adjoining properties and is not incompatible with the character of the neighborhood;

2. Such greater height is justified by requirements for security of persons or property in the area;

3. Such greater height is justified for topographic reasons; or

4. Such greater height, in the yard or yards involved, is not incompatible with the character of the surrounding neighborhood.

be amended, leaving other sections of Sec. 16-28.008(5) in effect as currently written; said amended section to read as follows, where new language is underlined, deleted language is ~~stricken~~ as indicated:

(5) *Walls or fences in required yards; height limits:* Fences, walls or hedges may occupy required yards as follows; provided, however, that no such walls or fences create substantial impediments to visibility as prohibiting at section 16-28.008(9).

(a) ~~In the following dwellings districts, R-1, R-2, R-3, R-4 and R-5, fences not exceeding four (4) feet in height may be erected in the front yard. Fences or walls not exceeding six (6) feet in height may be erected or maintained in side or rear yards. In the R-1 through R-5 districts, the following retaining walls and fences are permitted:~~

(1) Within the required front and half-depth front yards:

(i) Where no retaining wall is constructed, fences not exceeding three (3) feet in height may be erected.

(ii) Not more than two (2) retaining walls with a maximum height of three (3) feet each may be erected provided however that the face of the upper wall shall be separated from the edge of the lower wall by at least a minimum horizontal distance that is equal to the height of the upper wall.

(iii) A fence not exceeding 42 inches is permitted on a single retaining wall or on the top of the upper retaining wall, if both walls are provided

so that in either case the combined height of the wall and fence does not exceed six (6) feet.

(2) Within the required side and rear yards:

(i) Where no retaining wall is constructed, fences or walls not exceeding six (6) feet in height may be erected or maintained.

(ii) Not more than two (2) retaining walls with a maximum height of six (6) feet each may be erected, provided however that the face of the upper wall shall be separated from the edge of the lower wall by at least a minimum horizontal distance that is equal to the height of the upper wall.

(iii) A fence not exceeding 42 inches is permitted on a single retaining wall or on top of the upper retaining wall, if both walls are provided so that in either case the combined height of the wall and fence does not exceed eight (8) feet in height.

(3) Where a driveway is required and where justified for topographic reasons for which there is no other alternative, retaining walls of greater height may be allowed by permission of the Director of the Bureau of Buildings.

(b) In the following residential general (R-G) district, fences not exceeding four (4) feet in height may be erected in the front yard. Fences or walls not exceeding eight (8) feet in height may be erected or maintained in the side or rear yards.

(c) The provisions of (a) and (b) above notwithstanding, in any dwelling district no fence or wall exceeding two and one-half (2 1/2) feet in height, as measured from the grade at the intersecting street right-of-way lines, shall be erected or maintained within 20 feet of any street intersection.

(d) In all other districts, fences may be erected or maintained within any required yard provided they shall not exceed nine (9) feet in height.

(e) *Special exceptions on greater height of walls or fences in required yards:* The board of zoning adjustment may grant special exceptions in any district for greater heights only upon finding that:

1. Such wall or fence is justified by reason of security or privacy and will not unduly prevent passage of light and air to adjoining properties and is not incompatible with the character of the neighborhood;

2. Such greater height is justified by requirements for security of persons or property in the area;

3. Such greater height is justified for preexisting, natural topographic reasons for which there is no alternative to preserving the existing, occupied structure than to erect a retaining wall higher than the limitations set above; or

4. Such greater height, in the yard or yards involved, is not incompatible with the character of the surrounding neighborhood.

Section 2. That all ordinances or parts of ordinances in conflict with the terms of this ordinance are hereby repealed.